

ASSEMBLY BILL

No. 1315

**Introduced by Assembly Member Alejo
(Coauthor: Assembly Member Frazier)**

February 27, 2015

An act to add Section 7107.5 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1315, as introduced, Alejo. Public contracts: water pollution prevention plans: delegation.

Existing law prohibits a local public entity, charter city, or charter county from requiring a bidder on a public works contract to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except as specified.

Existing law requires the State Water Resources Control Board and the 9 California regional water quality control boards to prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Existing law regulates the discharge of pollutants in storm water associated with construction activity to waters of the United States from construction sites that disturb one or more acres of land surface, or that are part of a common plan of development or sale that disturbs more than one acre of land surface.

This bill would prohibit a public entity, charter city, or charter county from delegating to a contractor the development of a plan, as defined, used to prevent or reduce water pollution or runoff on a public works

contract, except as provided. By requiring a public entity, charter city, or charter county to prepare a plan, the bill would impose a state-mandated local program. The bill would also prohibit a public entity, charter city, or charter county from requiring a contractor on a public works contract that includes compliance with a plan to assume responsibility for the completeness and accuracy of a plan developed by that entity. The bill would also declare that this is a matter of statewide concern.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7107.5 is added to the Public Contract
2 Code, to read:

3 7107.5. (a) As used in this section, the following definitions
4 shall apply:

5 (1) "Plan" means a stormwater pollution prevention plan, water
6 pollution control program, or any other plan required by a regional
7 water quality control board to prevent or reduce water pollution
8 or runoff on a public works project, pursuant to State Water
9 Resources Control Board Order No. 2009-0009-DWQ.

10 (2) "Plan developer" means a qualified stormwater pollution
11 prevention plan developer or a qualified stormwater pollution
12 prevention plan practitioner as those terms are defined in Appendix
13 5 of State Water Resources Control Board Order No.
14 2009-0009-DWQ.

15 (b) (1) (A) A public entity, charter city, or charter county shall
16 not delegate to a contractor the development of a plan on a public
17 works contract.

18 (B) Subparagraph (A) shall not apply to a contract for
19 architectural or engineering services relating to the development
20 of a plan on a public works contract.

1 (2) A public entity, charter city, or charter county shall not
2 require a contractor on a public works contract that includes
3 compliance with a plan to assume responsibility for the
4 completeness and accuracy of the plan developed by that entity.

5 (c) Subdivision (b) shall apply regardless of the project delivery
6 method required in a public works contract.

7 (d) Nothing in this section shall be construed to prohibit a local
8 public entity, charter city, or charter county from requiring a bidder
9 or contractor on a public works contract to review any applicable
10 plan and report any errors or omissions noted to the public entity
11 or its plan developer. The review by the contractor shall be limited
12 to the contractor's capacity as a contractor and not as a licensed
13 design professional or plan developer.

14 SEC. 2. The Legislature finds and declares that it is of statewide
15 concern to require a public entity, charter city, or charter county
16 to be responsible for the development of, and completeness and
17 accuracy of, a plan to prevent or reduce water pollution or runoff
18 on a public works project.

19 SEC. 3. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.